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April 4, 2023

VIA ECF

Hon. Mary Kay Vyskocil
United States District Court
Southern District of New York
500 Pearl Street, Room 2230
New York, NY 10007

Re: *Acuitas Therapeutics Inc. v. Genevant Sciences GmbH et al.*,
Case No. 1:22-cv-02229-MKV

Dear Judge Vyskocil:

I write on behalf of Defendants Genevant Sciences GmbH and Arbutus Biopharma Corp. (collectively, “Defendants”) to inform the Court that today, April 4, 2023, Defendants sued Pfizer Inc. and BioNTech SE (“Pfizer/BNT”) in the U.S. District Court for the District of New Jersey (“NJ Complaint”). *See Arbutus Biopharma Corp. et al. v. Pfizer Inc. et al.*, No. 2:23-cv-01876-ZNQ (D.N.J.). The NJ Complaint, attached hereto as Exhibit A, alleges that Pfizer/BNT’s making, using and/or selling of their COVID-19 vaccine infringes five U.S. patents owned by Arbutus and licensed to Genevant.

The NJ Complaint, which was filed after licensing discussions between Defendants and Pfizer/BNT failed to result in a settlement, strengthens Defendants’ pending motion to dismiss this action for lack of subject matter jurisdiction or in the Court’s discretion (ECF No. 43). **First**, although jurisdiction here is to be assessed as of the date on which Acuitas filed its Complaint rather than as of today, the NJ Complaint does not mention Acuitas or allege indirect infringement, thus showing that no controversy exists between Acuitas and Defendants even as of today. **Second**, two patents asserted in the NJ Complaint are not at issue in this action, confirming that Defendants’ controversy with Pfizer/BNT cannot be entirely resolved here. **Third**, whereas a New Jersey judgment would resolve Defendants’ U.S. patent infringement controversy with Pfizer/BNT (the actual makers and sellers of the vaccine), Pfizer/BNT may argue that as non-parties to this action they are not bound by a judgment issued here, potentially necessitating duplicative litigation.

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Respectfully submitted,

/s/ Raymond N. Nimrod

Raymond N. Nimrod

cc: All Counsel of Record (via ECF)